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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/553,552

12/08/2006

Shaun Barrett

FA/252

4120

28596 7590 11/28/2008
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EXAMINER

THOMAS, ALEXANDER S

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

11/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/553,552 | Applicant(s) BARRETT, SHAUN | |
| | Examiner Alexander Thomas | Art Unit 1794 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/12/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8-11, 13-19, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0906824. The reference discloses a water proof seam formed between two pieces of fabric wherein one of the pieces is a laminate and comprises a first layer of waterproof water-vapor permeable material 5, 40 and a second layer of a woven or knitted material 30 composed of two components with instantly claimed temperature properties; see Figure 6, [0010], [0012], [0023], [0024], [0028], [0031] and [0050]. Concerning claim 11, since the seam tape has a layer of thermoplastic material

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it meets the instant claim limitation of a "hot melt adhesive". Concerning claim 18, any multilayered product, such as disclosed in the reference, will inherently be resistant to the passage of vapors of any material to a degree.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7, 12, 20, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0906824. The reference discloses a water proof seam formed between two pieces of fabric wherein one of the pieces is a laminate and comprises a first layer of waterproof water-vapor permeable material 5, 40 and a second layer of a woven or knitted material 30 composed of two components with instantly claimed temperature properties; see Figure 6, [0010], [0012], [0023], [0024], [0028], [0031] and [0050]. Concerning claim 7, it would have been obvious to one of ordinary skill in the art to use nylon and polypropylene as the first and second components respectively in the product of the reference since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Concerning claim 12, it would have been obvious to one of ordinary skill in the art to have the melting point of the seam tape below that of the components in the products to allow for better penetrating of adhesive into the seam.

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6. Claims 20, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0906824 in view of applicant's acknowledged state of the art. The reference discloses a water proof seam formed between two pieces of fabric wherein one of the pieces is a laminate and comprises a first layer of waterproof water-vapor permeable material 5, 40 and a second layer of a woven or knitted material 30 composed of two components with instantly claimed temperature properties; see Figure 6, [0010], [0012], [0023], [0024], [0028], [0031] and [0050]. The secondary reference discloses well-known seam structures that are used in garments (i.e. covers), etc.; see Figure 1 and page 1, first paragraph. It would have been obvious to one of ordinary skill in the art to use the two component laminate of the primary reference in any well known seam structure, such as that which is next to a zipper or present in a tent, as disclosed in the secondary reference depending on the intended end use of the two component laminate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Thomas whose telephone number is 571-272-1502. The examiner can normally be reached on 6:30-4:00 M-THUR.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Thomas/
Primary Examiner
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